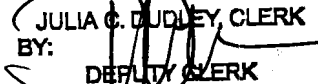


CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division

FEB 28 2011

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

TERRY HARDEN

Plaintiff

v.

PILLAR ENTERPRISE, LTD.,

and

BERLIN STEEL CONSTRUCTION
COMPANY,

Defendants.

Case No.: 5:11CV00013

NOTICE OF REMOVAL

Defendants, Pillar Enterprise, Ltd. ("Pillar") and Berlin Steel Construction Company ("Berlin") (collectively "Defendants"), by counsel and pursuant to 28 U.S.C. § 1446(a) and (b), petition the Court as follows:

1. On August 17, 2010, Plaintiff, Terry Harden ("Harden" or the "Plaintiff"), served counsel for Pillar and Berlin with a Complaint for Equitable and Monetary Relief and Demand for a Jury Trial filed in the Circuit Court for Frederick County, Virginia and styled *Terry Harden v. Pillar Enterprise, Ltd. et al.*, No. CL10-683. The original Complaint asserted two counts based on Virginia statutory and common law, but it did not allege any claims arising under federal law. Counsel for Pillar and Berlin accepted service for all Defendants.

2. On September 7, 2010, the State Court received and filed Plaintiff's First Amended Complaint, which included the same alleged causes of action as had the original Complaint and, also like the original Complaint, asserted no federal causes of action.

3. After the Parties conducted substantial discovery, including depositions, the

Plaintiff filed an Unopposed Motion for Leave to File a Second Amended Complaint. A true and accurate copy of the Second Amended Complaint is attached hereto as **Exhibit A**. In the Second Amended Complaint, Plaintiff alleges, for the first time, that Defendants violated the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. Thus, unlike the original Complaint and the First Amended Complaint, the Second Amended Complaint asserts claims arising under a federal statute.

4. On February 17, 2011, the State Court entered an Order granting the Plaintiff's Motion for Leave to File a Second Amended Complaint which is attached hereto as **Exhibit B**. As such, the Second Amended Complaint was deemed filed, and served, as of the date of entry of the State Court Order.

5. Since the Second Amended Complaint asserts causes of action under a federal statute, this Court has jurisdiction pursuant to 28 U.S.C. § 1331.

6. This Notice of Removal is filed with this Court within thirty (30) days of Defendants' receipt of the State Court's Order granting Plaintiff's Unopposed Motion for Leave to File a Second Amended Complaint, as required by 28 U.S.C. § 1446(b).

7. Since this Court has original jurisdiction, removal of this action is proper pursuant to 28 U.S.C. § 1441(a), and this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

8. This action is pending in a State Court within the Western District of Virginia, Harrisonburg Division, and removal to, and venue in, this Court is therefore proper under 28 U.S.C. § 1446(a).

9. Contemporaneously with the filing of this Notice of Removal, a Notice of Notice of Removal was filed with the Circuit Court for Fredrick County. A true and accurate copy of the Notice of Notice of Removal is attached hereto as **Exhibit C**.

WHEREFORE, the Defendants, by counsel, hereby give notice pursuant to 28 U.S.C. § 1446(a) of the removal of this action from the Circuit Court for the County of Frederick, Commonwealth of Virginia to the United States District Court, Western District of Virginia.

Respectfully submitted,

PILLAR ENTERPRISE, LTD
and BERLIN STEEL CONSTRUCTION
COMPANY

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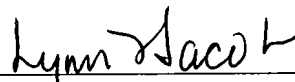
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*Counsel for Pillar Enterprises Ltd.
& Berlin Steel Construction Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February, 2011, a true and correct copy of the foregoing Notice of Filing Notice of Removal was served via First Class United States Mail, postage prepaid, and electronic mail to:

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